# EXHIBIT H

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**Attorneys For Defendants**
**Random House, Inc. and**
**Doubleday & Company, Inc.**

FILED
2006 FEB 21 PM 1:03

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | | |
|---|---|---|
| GARRETT HAUENSTEIN and JEAN TAYLOR, as individually and on behalf of a class of those similarly situated,<br><br>Plaintiffs,<br><br>vs.<br><br>JAMES FREY, BIG JIM INDUSTRIES, INC., RANDOM HOUSE, INC., DOUBLEDAY & COMPANY, INC., and Does 1-50, inclusive,<br><br>Defendants. | ) | Case No. CV 06-01030 MMM (SSx)<br><br>**NOTICE OF REMOVAL** |

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1446, as amended in relevant part by the Class Action Fairness Act of 2005, defendants Doubleday & Company, Inc. ("Doubleday") and Random House, Inc. ("Random House") (collectively "Defendants") hereby remove to this Court the above-styled action, pending as Case No. BC346567 in the Superior Court of the State of California for the County of Los Angeles ("the State Court Action"). As grounds for removal, Defendants states as follows:

### Factual Background

1. On January 27, 2006, Plaintiffs Garrett Hauenstein and Jean Taylor (collectively "Plaintiffs") filed the State Court Action in the Superior Court of the State of California for the County of Los Angeles.

2. Defendant Random House was served with a summons and complaint ("Cmplt.") on February 6, 2006. Defendant Doubleday has not yet been served in this action.

3. The complaint arises out of the publishing and marketing of the book "A Million Little Pieces" (the "Book") written by defendant James Frey. (Cmplt. ¶ 31).

4. Plaintiff's complaint contains five counts, which seek relief against Defendants for alleged violations of the Consumer Legal Remedies Act (Count I), for Unfair Business Practices (Count II), for violations of the Business and Professions Code Section 17500 (Count III), for Negligent Misrepresentation (Count IV), and for Fraud (Count V).

5. Plaintiffs are both citizens of the State of California. (Cmplt. ¶¶ 9-10).

6. Defendant Random House is a corporation organized and existing under the laws of the State of New York, with its principal place of business in New York, New York, and thus is a citizen of New York for these purposes.

7. Defendant Doubleday is a corporation organized and existing under the laws of the State of New York with its principal place of business in New York, New York, and thus is a citizen of New York for these purposes.

8. Defendant Frey is a citizen of the State of New York.

9. Plaintiffs seek to pursue their claims on behalf of a class of California residents who purchased the Book "from the time it was initially published through the present." (Cmplt. ¶ 32).

**Federal Jurisdiction under the Class Action Fairness Act**

10. Application of CAFA. The Court has original jurisdiction of this case pursuant to the Class Action Fairness Act of 2005 ("CAFA" or "the Act"). CAFA creates federal jurisdiction over lawsuits in which "the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs, and is a class action in which . . . any member of a class of plaintiffs is a citizen of a State different from any defendant," and the number of members of all proposed plaintiff classes exceeds 100. 28 U.S.C. § 1332(d)(2)(A) and (d)(5).[1] As explained below, each of these criteria are met here.

11. Amount in Controversy. The aggregate amount in controversy in this case exceeds $5,000,000, exclusive of interest and costs. Plaintiffs seek to recover under California's Consumer Legal Remedies Act, for Unfair Business Practices and for violations of the Business and Professions Code Section 17500. In addition, Plaintiffs seek to recover for Negligent Misrepresentation and for Fraud.[2] In addition to injunctive relief seeking to have defendants enjoined "from engaging in similar unlawful acts or practices in the future," Plaintiffs seek "all ascertainable

[1] CAFA applies to any action commencing on or after February 18, 2005 – the date when CAFA was enacted. *See* CAFA § 9 ("The amendments made by this Act shall apply to any civil action commended on or after the date of enactment of this Act.")

[2] Defendants deny that Plaintiffs have stated a claim or that certification of a statewide or nationwide class would be appropriate. Defendants further deny that Plaintiffs or any putative class member is entitled to any relief whatsoever.

amounts, losses, refunds, including the purchase price paid for *A Million Little Pieces*, and statutorily permissible damages, attorneys' fees, expenses, and costs." (Cmplt. pp. 18). Based on estimates of sales of the Book in California, the amount in controversy in this action exceeds the $5,000,000 threshold. (Declaration of Donald Weisberg, Exhibit A hereto, at ¶ 6.) The Book was sold in both a hardcover edition (with a suggested retail price of $22.95) and a paperback edition (with a suggested retail price of $14.95). *Id.* at ¶ 4. More than an estimated 26,000 hardback copies of the Book were sold to consumers in California. *Id.* at ¶ 5. More than an estimated 350,000 paperback copies were sold to consumers in California. *Id.* These figures suggest that in excess of $5,000,000 is at issue in this case.

12. Citizenship of the Parties. There is diversity of citizenship between a members of the putative class and defendants Random House and Doubleday:

a. Plaintiffs and the alleged putative class members are citizens of California.

b. Defendants Doubleday and Random House are New York corporations with their principal places of business in New York, New York, and thus are citizens of New York for these purposes.

c. Defendant Frey is a resident of the State of New York.

d. Accordingly, this action is a class action where "any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A).

13. Number of Class Members. As the above figures indicate, there are more than 100 class members.

14. Mandatory Jurisdiction. Federal jurisdiction over this action is mandatory, not permissive. CAFA classifies qualifying class actions (i.e., ones in which the $5 million amount-in-controversy is met) by the number of class members located in the state where the action is filed and the citizenship of the defendants.

Although more than 2/3 of the class members are located in the state of California, the provision of CAFA which requires a court to decline jurisdiction does not apply here because neither of the primary defendants (i.e., Random House and Frey) are citizens of the state of California. *See* 28 U.S.C. § 1332(d)(4). Even if one of the defendants in this action were a resident of California, the Court still could not decline jurisdiction because, prior to the filing of this action, a class action alleging the same or similar factual allegations was brought against defendants Random House and Frey. *See More v. Frey, et al.*, No. 06 CH 00772, Circuit Court of Cook County, Illinois (January 12, 2006); 28 U.S.C. § 1332(d)(3)(A)(ii).[3]

**Procedural Matters**

15. Removal is Timely. A notice of removal may be filed within 30 days after the defendant receives a copy of the initial pleading, motion, or other paper from which it may be ascertained that the case is removable. 28 U.S.C. § 1446(b). The United States Supreme Court has held that the 30-day period prescribed in section 1446(b) runs from the date of formal service of the complaint. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 355-56 (1999). Here, Random House was served on February 6, 2006. This notice of removal is thus timely, as the 30-day period for removal does not expire until March 9, 2006.

16. Removal to Proper Court. This Court is part of the "district and division embracing the place where" the State Court Action was filed – Los Angeles County, California. 28 U.S.C. § 1446(a).

17. Consent Not Required. Pursuant to 28 U.S.C. § 1453(b), the consent of other defendants to this removal is not required.

18. Pleadings and Process. Pursuant to 28 U.S.C. § 1446(a), attached hereto as Exhibit B is "a copy of all process, pleadings, and orders served upon"

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[3] The *More* case has also been removed and is currently pending before the United States District Court for the Northern District of Illinois, Eastern Division.

defendant Random House. Defendants have not answered or otherwise filed a responsive pleading to the Complaint.

19. Filing and Service. A copy of this Notice of Removal is being filed with the Clerk of the Superior Court of the State of California for the County of Los Angeles, and is being served on all counsel of record, consistent with 28 U.S.C. § 1446(d). The Superior Court of the State of California for the County of Los Angeles is located within this district.

WHEREFORE, defendants Doubleday & Company, Inc. and Random House, Inc. respectfully remove this action, now pending in the Superior Court of the State of California for the County of Los Angeles, to the United States District Court for the Central District of California.

Dated: February 21, 2006

Respectfully submitted,

SIDLEY AUSTIN LLP

By: [signature]
Jennifer A. Ratner
Attorneys For Defendants
Random House, Inc. and Doubleday & Company, Inc.

# EXHIBIT A

# DECLARATION OF DONALD WEISBERG

Pursuant to 28 U.S.C. § 1746, Donald Weisberg declares and states as follows:

1. My name is Donald Weisberg. I am over the age of 21 and am competent to testify as to the statements set forth in this declaration.

2. I am currently the Executive-Vice President and Chief Operating Officer, North America of Random House, Inc. ("Random House"), a position I have held since November 2001. In my position, I am familiar with sales figures for books published by Random House and its related corporate entities.

3. I am familiar with the book "A Million Little Pieces," by James Frey. In 2003, "A Million Little Pieces" was published in hardcover by Nan A. Talese, an imprint of Doubleday, a division of Random House. In 2005, "A Million Little Pieces" was published in paperback by Anchor Books, a division of Random House.

4. The suggested retail price of the hardcover edition of the book was $22.95. The suggested retail price for the paperback edition of the book was $14.95.

5. I have reviewed sales figures for "A Million Little Pieces" maintained by Random House in the normal and ordinary course of its business. I have also reviewed retail "point of sales" data provided by certain third-parties. Based on this data, I estimate that as of January 7, 2006: (1) more than 350,000 copies of the paperback edition of "A Million Little Pieces" were sold to consumers in California; and (2) more than 26,000 copies of the hardcover edition of "A Million Little Pieces" were sold to consumers in California.

6. Based on this sales data and the suggested retail prices listed above, the total amount of sales to consumers in California of "A Million Little Pieces" exceeds $5,000,000.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on February 16, 2006 at NEW YORK, NEW YORK.

Donald Weisberg

Donald Weisberg

# EXHIBIT B

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*

FOR COURT USE ONLY

Christopher Taylor (SBN 236245)
CANCEDO & NIEVES, LLP.
174 West Colorado Boulevard
Pasadena, CA 91105
TELEPHONE NO (626) 685-9800 FAX NO (Optional) (626) 685-9808
E-MAIL ADDRESS (Optional)
ATTORNEY FOR (Name) Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS 111 North Hill Street
MAILING ADDRESS Los Angeles, CA 90012-3014
CITY AND ZIP CODE
BRANCH NAME CENTRAL DISTRICT

PLAINTIFF/PETITIONER GARRETT HAUENSTEIN and JEAN TAYLOR, as individuals and on behalf of a class of those

DEFENDANT/RESPONDENT JAMES CHRISTOPHER FREY, BIG JIM INDUSTRIES, INC., RANDOM HOUSE, INC. DOUBLEDAY & COMPANY

## NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL

CASE NUMBER: BC 346567

TO *(insert name of party being served)*: RANDOM HOUSE, INC. c/o Corporation Service Company

### NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: February 02, 2006

Rosario Castellanos
(TYPE OR PRINT NAME)

▶ *[signature]*
(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

### ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of *(to be completed by sender before mailing)*:

1. x A copy of the summons and of the complaint.
2. x Other: *(specify)*: Civil Cover Sheet, ADR Information and Notice of Case Assignment.

*(To be completed by recipient)*:

Date this form is signed:

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

▶

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

# SUMMONS
## (CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JAN 27 2006

John A. Clarke, Executive Officer/Clerk
By ______________, Deputy
D. GILES

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
JAMES FREY; BIG JIM INDUSTRIES INC., RANDOM HOUSE, INC., DOUBLEDAY & COMPANY, INC. and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
GARRETT HAUENSTEIN and JEAN TAYLOR, as individuals and on behalf of class of those similarly situated;

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es)
Superior Court of California
COUNTY OF LOS ANGELES
111 North Hill Street
Los Angeles, CA 90012-3014
CENTRAL DISTRICT

CASE NUMBER
(Número del Caso) [illegible]

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)
Hector G. Gancedo (SBN 134384)
Christopher Taylor (SBN 236245)
GANCEDO & NIEVES, LLP.
Pasadena, CA 91105
(626) 685-9800 (626) 685-9808

DATE
(Fecha) John A. Clarke Clerk, by (Secretario) DEBRIAN GILES, Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010))

[SEAL]

JAN 27 2006

NOTICE TO THE PERSON SERVED: You are served
1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under:
- CCP 416.10 (corporation)
- CCP 416.20 (defunct corporation)
- CCP 416.40 (association or partnership)
- other (specify):
- CCP 416.60 (minor)
- CCP 416.70 (conservatee)
- CCP 416.90 (authorized person)

4. by personal delivery on (date):

Hector G. Gancedo (SBN 132139)
Amy M. Boomhouwer (SBN 221869)
Christopher W. Taylor (SBN 236245)
GANCEDO & NIEVES LLP
144 W. Colorado Boulevard
Pasadena, California 91105
Tel: 626/685-9800
Fax: 626/685-9808

Attorneys for Plaintiff

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JAN 2 7 2006

John A. Clarke, Executive Officer/Clerk
By ______________, Deputy
D. GILES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

GARRETT HAUENSTEIN and JEAN TAYLOR, as individuals and on behalf of a class of those similarly situated;

Plaintiffs,

vs.

JAMES FREY, BIG JIM INDUSTRIES, INC., RANDOM HOUSE, INC., DOUBLEDAY & COMPANY, INC. and DOES 1 through 50, inclusive,

Defendants.

Case No. BC346567

**CLASS ACTION COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF BASED ON:**

1. Violation of California Civil Code Section 1750, *et seq.*
2. Violation of Business and Professions Code section 17200, *et seq.*
3. Violation of Business and Professions Code section 17500, *et seq.*
4. Negligent Misrepresentation
5. Fraud

**Jury Trial Demanded**

All allegations made in this Complaint are based upon information and belief except those allegations which pertain to Plaintiff, which are based upon personal knowledge. Plaintiff's information and belief are based upon, *inter alia*, Plaintiff's own investigation and investigation conducted by Plaintiff's counsel.

I.

## NATURE OF THE ACTION

1. This action seeks relief against James Frey, Random House, Inc., Doubleday & Company, Inc. and Docs 1 through 50 (collectively referred to as "Defendants") for monetary, injunctive, equitable and declaratory relief for the Class members Jean Taylor and Garrett Hauenstein represent and for the general public of the State of California who have been exposed to Defendants' illegal business practices in violation of California Civil Code Section 1750, *et seq*, Business and Professions Code Section 17200 *et seq.*, Business and Professions Code Section 17500 *et seq.*, negligent misrepresentation and fraud.

2. This consumer class and private attorney general action arises from the Defendants' misrepresentation of James Frey's book, "A Million Little Pieces," as a true and honest work of non-fiction to induce sales, when in fact Defendants knew the book was a work of fiction.

II.

## JURISDICTION AND VENUE

3. This Court has jurisdiction over this class action under Article 6, Section 10 of the California Constitution, and Section 410.10 of the California Code of Civil Procedure. Federal jurisdiction does not exist in this case because there is no federal question implicated and each Class member's claim for relief will not exceed the federal jurisdictional minimum of $75,000.

4. This court has jurisdiction over James Frey because he conducts substantial business in the State of California. Mr. Frey has sufficient minimum contacts with California and otherwise intentionally avails himself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

5. This court has jurisdiction over Big Jim Industries, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Big

Jim Industries, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

6. This court has jurisdiction over Random House, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Random House, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

7. This court has jurisdiction over Doubleday & Company, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Doubleday & Company, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

8. Venue is proper within this judicial district under Code of Civil Procedure Section 395 because a substantial part of the acts, conduct, events or omissions alleged herein occurred or will occur within Los Angeles County and in the State of California, and Defendants conduct substantial business with consumers who reside in Los Angeles County and the State of California.

## III.

## THE PARTIES

9. Plaintiff Jean Taylor is an adult individual residing in Los Gatos, California. Plaintiff Taylor purchased the book on or about October 27, 2005 at a Costco warehouse store.

10. Plaintiff Garrett Hauenstein is an adult individual residing in Los Angeles,

California. Plaintiff Gauenstein purchased the book on or about October 9, 2005 at a Barnes & Noble bookstore.

11. Defendant James Frey is an individual residing in New York and doing business in the State of California and the County of Los Angeles.

12. Defendant Big Jim Industries, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

13. Defendant Random House, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

14. Defendant Doubleday & Company, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

15. The true names and capacities, whether individual, corporate, associate or otherwise of the defendants Does 1 through 50, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names pursuant to Code of Civil Procedure § 474; Plaintiff further alleges that each of said fictitious Defendants is in some manner responsible for the acts and occurrences hereinafter set forth. Plaintiff will amend this Complaint to show their true names and capacities when same are ascertained, as well as the manner in which each fictitious Defendant is responsible.

## IV.

## FACTUAL BACKGROUND

16. On or about May 2003, Random House, Inc. and Doubleday & Company, Inc. published James Frey's book A Million Little Pieces.

17. Random House, Inc., Doubleday & Company, Inc. and author Frey represented the work as a "Memoir." These representations were made on the book's cover, in media press

kits, in television and newspaper interviews and at personal appearances by author Frey.

18. According to Random House, Inc., Doubleday & Company, Inc. and author Frey, A Million Little Pieces is a true account of Frey's criminal past, rampant drug and alcohol abuse, and inspiring recovery at a Minnesota rehabilitation facility. On this basis, author Frey's memoir became a publishing phenomenon.

19. More than 3.5 million copies of A Million Little Pieces have sold. More than 2.1 million copies of A Million Little Pieces sold after television personality Oprah Winfrey selected it for her popular book club. Ms. Winfrey's stamp of approval is known for turning unknown authors into best-sellers overnight.

20. On October 26, 2005, Ms. Winfrey interviewed author Frey on The Oprah Winfrey Show. On the program, author Frey tearfully represented to millions of television viewers that his memoir was an honest work of non-fiction. Relying on these representations, Ms.Winfrey lauded the memoir she believed to be true as a "mesmerizing story." Sales skyrocketed.

21. Among the millions of viewers who witnessed author Frey on The Oprah Winfrey Show was plaintiff Jean Taylor. Mrs. Taylor was captivated by author Frey's purportedly true story of redemption. Frey's representations on The Oprah Winfrey Show caused Mrs. Taylor to visit a Costco warehouse store the following day specifically to purchase a copy of A Million Little Pieces. She did in fact purchase of copy of A Million Little Pieces that day.

22. Garrett Hauenstein was motivated to purchase a copy of A Million Little Pieces after learning through the media of author Frey's truthful and inspiring account of overcoming drug and alcohol addiction. Mr. Hauenstein had recently ceased using alcohol. He purchased a copy of A Million Little Pieces at a Barnes & Noble bookstore.

23. Random House, Inc., Doubleday & Company, Inc. and author Frey have profited handsomely from A Million Little Pieces, reaping millions of dollars in profits. Additionally, author Frey, just a few years removed from his life as a struggling Hollywood screenwriter, parlayed the success of A Million Little Pieces into numerous lucrative movie deals.

24. Despite Random House, Inc., Doubleday & Company, Inc. and author Frey's representations, A Million Little Pieces has been exposed as a work of fiction.

25. The fraud was initially exposed in a lengthy expose' published by The Smoking Gun web site on January 8, 2006. Among the "truths" debunked is author Frey's claim to have spent three months in an Ohio jail, an incident that he infers that precipitated the suicide of his love interest "Lilly." In truth, he spent only a few hours in jail. The existence of "Lilly" and her purported suicide is now in question. Also disproved was author Frey's claim to have struck a police officer with a car. In A Million Little Pieces," this harrowing incident results in a wrestling match with the officer and the prospect of years behind bars for Frey, which fuels the second half of the book. In truth, his car struck a curb and he was ticketed for driving under the influence. These falsehoods have called into question the truthfulness of every person and event in the memoir, including author Frey's criminal past, his molestation by a priest in France, physical altercations with other rehabilitation facility residents, root canal procedure without pain medication, and even the existence of facility residents such as author Frey's lover "Lilly," mafioso friend "Leonard," other facility residents. These elements and many others like them bolster the story's narrative and make author Frey a compelling anti-hero. As such, they play a critical role in author Frey's memoir of redemption. Without them, A Million Little Pieces is indistinguishable literally from thousands of other works of fiction published each year.

26. On a January 11, 2006 appearance on the nationally televised Larry King Live show, author Frey himself concedes A Million Little Pieces is a "subjective retelling of events," and he acknowledged embellishments and outright falsehoods. Author Frey also stated he originally submitted A Million Little Pieces to Random House, Inc. for consideration as a work of fiction, but that it was rejected, and that Random House, Inc. and Doubleday & Company, Inc. only purchased the book after author Frey repackaged the same story as non-fiction. Author Frey further stated that Random House, Inc. and Doubleday & Company, Inc. had not decided whether to publish A Million Little Pieces as fiction or non-fiction even *after* they purchased the book, indicating Random House, Inc. and Doubleday & Company, Inc. knew or should have known A

Million Little Pieces was not a true and honest work of non-fiction. During the telecast, Oprah Winfrey appeared via telephone and supported author Frey and his memoir. Ms. Winfrey's continued support enabled A Million Little Pieces to remain at the top of the bestseller lists and Random House, Inc., Doubleday & Company, Inc. and author Frey to reap additional untold profits.

27. On a January 26, 2006 re-appearance on The Oprah Winfrey Show, author Frey was confronted by the formerly supportive Ms. Winfrey who said she felt "duped" and believed the author "betrayed millions of readers" by making up elements of his life. Ms. Winfrey noted that her staff had been alerted to possible discrepancies in author Frey's book, only to be assured by Random House, Inc that the memoir was true, precipitating her support on the Larry King Live show. Commenting on the Smoking Gun expose, author Frey stated "Most of what they wrote is pretty accurate." Author Frey said he had made up many of the details of his life and had created a bad-guy portrayal of himself as a "coping mechanism." He also stated "I made a lot of mistakes in writing the book and promoting the book." Pressing further, Ms. Winfrey asked if he made up the material because it helped him cope or because he thought it would help sell books. Author Frey responded, "Probably both." Frey's admissions cast doubt on the truthfulness of each and every page.

28. Also on the January 26, 2006 Oprah Winfrey Show, publisher Nan A. Talese, representing Random House, Inc. and Doubleday & Company, Inc. told Ms. Winfrey that Random House and Doubleday editors who read the A Million Little Pieces raised no questions about its many incredible elements and that it received legal vetting. She acknowledged A Million Little Pieces had not been fact-checked and that future copies would carry a disclaimer informing consumers of the book's fictional nature.

29. Also on January 26, 2006, motivated by the blatant admissions of fraud and negligence made by author Frey and Random House, Inc. representative Nan A. Talese on The Oprah Winfrey Show, Random House, Inc. and Doubleday & Company, Inc. issued a press release accepting responsibility for representing A Million Little Pieces to be a memoir rather

than a work of fiction. (See "News from Doubleday & Anchor News" press release, attached hereto as Exhibit "A"). In part, the press release reads: "[i]t is not the policy or stance of this company that it doesn't matter whether a book sold as nonfiction is true."

V.

FACTS REGARDING DEFENDANTS' UNLAWFUL CONDUCT

30. Author Frey fraudulently represented his book A Million Little Pieces to be a true and honest work of non-fiction at personal appearances, in print and on televison, including, but not limited to The Oprah Winfrey Show.

31. Random House, Inc. and Doubleday & Company, Inc. fraudulently represented and promoted the book A Million Little Pieces to be a true and honest work of non-fiction, on the book's cover, through press kits, promotions, press releases and various other media channels, including but not limited to, the New York Times, USA Today, Amazon, Barnes & Noble and other best-sellers lists.

VI.

CLASS ALLEGATIONS

32. Plaintiffs brings this action, on behalf of themselves and all others similarly situated, as a class action pursuant to California Code of Civil Procedure Section 382 and California Civil Code Section 1781. The Class which Plaintiffs seeks to represent ("The Plaintiff Class") is defined as follows:

> **All consumers in California who purchased the book A Million Little Pieces from the time it was initially published through the present (the "Class Period").**

33. Excluded from the Class are Defendants in this action, any entity in which Defendants have a controlling interest, any officers or directors of Defendants, the legal representatives, heirs, successors, and assigns of Defendants, and any judicial officer assigned to this matter.

34. Plaintiffs reserve the right, upon completion of discovery with respect to the scope of the Class and the Class Period to amend the definitions set forth above.

35. The members of the Class are so numerous and geographically diverse that joinder of all of them is impracticable. Plaintiffs believe, and therefore aver, that there are more than tens of thousands of members of the Class within California and a multiple thereof nationwide.

36. Plaintiffs, who are members of the Class as indicated, have suffered harm, are committed to pursuing this action, and have retained competent counsel experienced in class action litigation and in litigation of this nature. Accordingly, Plaintiffs are adequate representatives of the Class because they have the same interests as all the members of the Class, their claims are typical of the claims of the members of the Class, and they will fairly and adequately protect the interests of the Class.

37. There are questions of law and fact common to members of the Class that predominate over any questions affecting any individual members including, inter alia, the following:

(a) Whether Defendants' false and/or misleading statements of fact and concealment of material facts, to the Class and the public were likely to deceive the Class and the public;

(b) Whether Defendants', by their conduct as set forth herein, has engaged in unfair, deceptive, untrue, or misleading statements about the truthfulness of A Million Little Pieces;

(c) Whether Defendants' conduct caused damages for which Defendants are liable;

(d) Whether, as a result of Defendants' misconduct, Plaintiff and the Class are entitled to damages, restitution, injunctive, equitable and other relief, and the amount and nature of such relief.

38. The likelihood that individual members of the Class will prosecute separate and individual actions is remote due to the relatively small — albeit substantial in the aggregate — actual and potential damages to be suffered by each member of the Class compared to the losses

suffered by the Class as a whole compared to the burden and expense of prosecuting litigation of this nature and magnitude. Plaintiff envisions no difficulty in the management of this action as a Class Action.

39. For the reasons stated above, a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy.

VII.

**PRIVATE ATTORNEY GENERAL ALLEGATIONS**

40. Plaintiffs assert claims in this action as a private attorney general on behalf of members of the general public residing within the State of California pursuant to California Business and Professions Code section 17204 in order to enjoin defendants from engaging in the unfair, unlawful and deceptive business practices alleged in this Complaint and to require Defendants to set up a restitutionary account to disgorge and restore to the members of the general public residing within the State of California all monies wrongfully obtained by Defendants through their unlawful business practices. A private attorney general action is necessary and appropriate because Defendants have engaged in the wrongful acts described herein as a general business practice.

VIII.

**FIRST CAUSE OF ACTION**
**(All Defendants - Violations of the Consumer Legal Remedies Act - Injunctive Relief Only)**

41. Plaintiff incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

42. The Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, et seq. (the "Act"), provides California consumers with a comprehensive procedure for redressing Defendant's violations of various statutory rights.

43. Defendants' misrepresentation of A Million Little Pieces, which is a "good" under section 1761(a), as a true and honest work of non-fiction has violated, and continues to

violate, the CLRA in at least the following respects:

(a) In violation of section 1770(a)(2) of the CLRA, Defendants' have misrepresented the sponsorship, approval or certification of the goods or services in question;

(b) In violation of section 1770(a)(5) of the CLRA, Defendants' acts and practices constitute representations that the goods or services in question have approval, characteristics, uses or benefits which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he or she does not have;

(c) In violation of section 1770(a)(7) of the CLRA, Defendants' acts and practices constitute representations that the goods or services in question are of a particular standard, quality or grade, when they are not;

(d) In violation of section 1770(a)(9) of the CLRA, Defendants' acts and practices constitute the advertisement of goods in questions without the intent to sell them as advertised;

(e) In violation of section 1770(a)(16) of the CLRA, Defendants' acts and practices constitute representations that the subject of the transaction has been supplied in accordance with previous representations when it has not.

44. By reason of the foregoing, Plaintiffs and Class members have been irreparably harmed, entitling them to both injunctive relief and restitution.

45. Pursuant to section 1782 of the Act, Plaintiffs notified Defendants in writing, dated January 27, 2006, of the particular violations of section 1770 of the Act. Plaintiffs demanded Defendants rectify the actions described above by providing complete monetary relief, agreeing to be bound by their legal obligations and give notice to all affected customers of their intent to do so. Plaintiffs sent this notice by certified mail, return receipt requested, to Defendants' principal places of business.

46. If Defendant fails to respond to plaintiff's demand within 30 days of the letter pursuant to section 1782 of the Act, Plaintiffs will amend this Complaint to add claims for actual, punitive and statutory damages. Plaintiffs are already entitled to the relief set forth above, along

with costs, attorneys' fees and any other relief which the Court deems proper.

**SECOND CAUSE OF ACTION**
**(All Defendants - Unlawful Business Practices -**
**Violation of Business and Professions Code Section 17200)**

47. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

48. Plaintiffs assert this claim against Defendants for unlawful business practices pursuant to California Business and Professions Code Sections 17200 *et seq.* which prohibits all unlawful or unfair business practices and/or acts. These statutes are liberally construed to protect California consumers.

49. Plaintiffs asserts their claim as a member of an aggrieved class of persons who have expended funds that Defendants should be required to reimburse under the restitutionary remedy specified in Business & Professions Code section 17203.

50. Defendants represented A Million Little Pieces to be a true and honest work of non-fiction, which it is not, rendering Defendants' representations unfair, untrue, misleading and/or likely to deceive Plaintiffs, members of the Class and the general public.

51. Defendants' practices deceived consumers who trusted Defendants' representations that A Million Little Pieces is a true and honest work of non-fiction, which it is not. As such, Defendants' representations are unlawful and constitute an "unfair business practice."

52. By acting as alleged herein, Defendant employed unconscionable commercial practices, deception, false advertising, false promises and misrepresentation to lure consumers to purchase A Million Little Pieces.

53. The practices of the Defendants have injured Plaintiffs and members of the Class by causing them spend money on a book they otherwise would not have purchased, and/or in the alternative, by decreasing the value and enjoyment of the purchased book.

54. The unlawful acts and practices of Defendant as alleged above constitute unlawful business practices within the meaning of California Business and Professions Code Section 17200, *et seq.*

**THIRD CAUSE OF ACTION**
**(All Defendants - Violation of Business and Professions Code Section 17500, *et seq.*)**

55. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

56. During the class period Defendants have committed acts of untrue and misleading advertising, as defined by Business and Professions Code section 17500, by engaging in acts and practices with intent to induce consumers to purchase A Million Little Pieces. The following acts and practices, among others, created a likelihood of confusion and misunderstanding in connection with the sale of A Million Little Pieces:

(a) Author Frey fraudulently represented his book A Million Little Pieces to be a true and honest work of non-fiction at personal appearances, in print and on televison, including but not limited to The Oprah Winfrey Show.

(b) Random House, Inc. and Doubleday & Company, Inc. represented and promoted the book A Million Little Pieces to be a true and honest work of non-fiction on the book's cover, through press kits, promotions, press releases and various other media channels, including but not limited to; the New York Times, USA Today, Amazon, and Barnes & Noble best-sellers lists.

57. Plaintiffs and other members of the Class relied on and were deceived by Defendants' false and deceptive advertisements and practices as set forth above, and as a direct and proximate result of the aforementioned acts, Defendants received and continue to hold ill-gotten gains belonging to Plaintiff and members of the Class.

58. In addition to the relief requested in the Prayer below, Plaintiffs seek the imposition of a constructive trust over, and restitution and disgorgement of, the monies collected

and profits realized by Defendants, and each of them, as well as injunctive relief, including an order requiring them to cease from false and misleading advertising of A Million Little Pieces.

**FOURTH CAUSE OF ACTION**
**(All Defendants - Negligent Misrepresentation)**

59. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

60. Defendants recklessly or negligently misrepresented or concealed facts relating to the fictional nature of A Million Little Pieces and represented it as a true and honest work of non-fiction.

61. The facts misrepresented or omitted by Defendants were and are material.

62. Plaintiffs and other members of the Class, believing Defendants' representations that A Million Little Pieces was a true and honest work of non-fiction, and without means to know otherwise, reasonably relied upon Defendants' misrepresentations, omissions and other practices, directly or indirectly, and purchased said book.

63. Plaintiffs and the other members of the Class have thereby been damaged, the exact amount of which is presently unknown, but is capable of being ascertained.

64. As a result of Defendants' practices as set forth herein, Defendants are liable to Plaintiffs and the other members of the Class for compensatory damages, interest and costs.

**FIFTH CAUSE OF ACTION**
**(All Defendants - Fraud)**

65. Plaintiffs incorporates by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

66. Defendants carried out a fraudulent scheme in which they made representations that A Million Little Pieces was a true and honest work of non-fiction, including, but not limited to, through the following media:

(a) In the February 3, 2003 edition of the New York Observer, author Frey states of A Million Little Pieces. "All that matters is what the feelings are and what the events are." "It's not about all this trickery. When I think about writing, I have a very simple formula: Where was I? Who was I with? What happened? And how did it make me feel? Those are the only important things..." In reaction to mention of other popular authors, Frey states:"I think my approach to telling a story couldn't be more different than theirs is." "I think they're full of bells and whistles and tricks and being cute and being ironic and being all this shit. To be honest, I don't understand it. It's not how I think or how I feel...".

(b) In the April 4, 2003 issue of the national magazine Entertainment Weekly, author Frey spoke of the value truth brings to his book, stating: "Books about addicted people are often written in a way that makes them sound cool...and it's not cool or fun or glorious or romantic. It's just awful... [w]hen I wrote the last words, I burst out in tears for about an hour...[j]ust bawled at my desk." Aiding in Frey's misrepresentation of A Million Little Pieces was Frey's Random House, Inc. editor, Sean McDonald, who discussed author Frey's memoir, stating "His book is not just mouthing off," he says, "which is what James can do in interviews. And clearly, there's some fear that people would treat the book the same way, which would be terrible."

(c) In the April 21, 2003 edition of the Chicago Sun-Times, author Frey stated of criticism of A Million Little Pieces and its truthfulness,"I didn't set out to be anything but a great writer. I don't care if somebody calls me a 'literary bad boy' and I don't care if they don't. It's not any of my concern. People can say whatever they want about me. And I know that's gonna happen, and I'm fully prepared for it to happen. My concern is what I do when I sit down and I work. And my concern is if I can look myself in the mirror when I wake up in the morning. And my concern is if I make my family and my wife and the people I work with proud of me. Beyond that, I don't give a s---."

(d) In the May 6, 2003 edition of the Cleveland Plain Dealer, author Frey states:"The publisher contacted the people I wrote about in the book," he said. "All the events depicted in the book checked out as factually accurate. I changed people's names. I do believe in the anonymity part of AA. The only things I changed were aspects of people that might reveal their identity. Otherwise, it's all true."

(e) In a May 20, 2003 interview published in the Los Angeles Times, author Frey said of his memoir, "I was trying to keep it as honesty-based as possible." "I don't think anyone's written about detox the way I have." "Maybe other writers have forgotten how awful it is or maybe they're worried that if they write about how awful it is, it'll turn people off" "When you detoxify yourself, you throw up constantly. You're sick, constantly. Your body is an utter disaster. I tried to write what I experienced." When he sat down to write A Million Little Pieces, he explained, the trend toward irony was at its height, but it wasn't an approach he wanted to follow. "I think the best literature, the best writing, is honest and true." He wrote the memoir, in some ways, he explained, to honor the people who'd been in rehab with him, many of whom have since died from the consequences of their addictions. "You have to be earnest and sentimental to do that."

(f) In the July 27, 2003 edition of the Minneapolis Star Tribune, Random House, Inc. editor Nan A. Talese defended the truthfulness of A Million Little Pieces, stating, "You have to remember when someone is writing in the first person, it is their memory as they recall it" "And memory is very selective; there's no such thing as the whole story. If they took a lie-detector test it would probably be true, but if that person had a witness all the way through, maybe it didn't exactly happen that way. But that's how they see it." Talese also stated, "Our lawyers are very, very careful."

(g) In late 2005, author Frey published a message to individuals critical of A Million Little Pieces and its truthfulness on his Bigjimindustries.com web site: "Let the haters hate, let the doubters doubt, I stand by my book, and my life, and I won't dignify this (sic) with any sort of further response."

(h) On the October 26, 2005 episode of The Oprah Winfrey Show, author Frey stated, ""If I was gonna write a book that was true, and I was gonna write a book that was honest, then I was gonna have to write about myself in very, very negative ways."

(i) On the January 11, 2006 episode of Larry King Live, author Frey commented on A Million Little Pieces' account of his time in a Minnesota rehabilitation facility, stating "As I've said and I'll continue to say, this is the true story of what I went through there."

(j) On January 11, 2006, Random House, Inc. issued a press release stating "We're standing by our author." The press release also noted author Frey's memoir was "highly personal" and said that Mr Frey had represented to the publisher that the story was "true to his recollections."

(k) As of January 27, 2006, Random House, Inc.'s web site promoted A Million Little Pieces as "an uncommonly genuine account of a life destroyed and a life reconstructed."

67. When Defendants made their representations they knew them to be false.

68. When Defendants made these false representations they made them with the intention to induce their customers to act in reliance on the representations made, or with the expectation that their customers would so act.

69. Plaintiffs and the Class purchased A Million Little Pieces based upon Defendants' representations it was a true and honest work of non-fiction. As such, Defendants' representations were material.

70. Defendants had exclusive knowledge of material facts not known to the plaintiffs or the Class.

71. Plaintiffs were ignorant of the falsity of Defendants' representations and believed them to be true. In reliance of these representations, Plaintiffs were induced to and did purchase A Million Little Pieces. Had Plaintiffs and the Class known the actual facts, they would not have purchased the book. Plaintiffs and the Class' reliance on Defendants' representations was justified because Defendants' continued their fraudulent scheme of misrepresenting the true nature of A Million Little Pieces throughout the Class Period.

72. As a direct and proximate result of Defendants' fraudulent conduct, Plaintiffs and members of the Class have suffered damages and economic loss in an amount to be proven at

trial.

73. In perpetrating the fraud alleged herein, Defendants acted in a willful, wanton and malicious manner, in callous, conscious and intentional disregard for the rights of Plaintiffs and members of the Class, and with knowledge that their actions and conduct were substantially likely to vex, annoy and injure Plaintiff and members of the Class. As a result thereof, Plaintiffs and members of the Class are entitled to an award of punitive and exemplary damages against Defendants, pursuant to *California Civil Code* section 3294, in an amount accordin[illegible]of at trial.

## IX.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

A. Ordering that the action be maintained as a California state class action, certifying the proposed class, and appointing Plaintiffs and their undersigned counsel of record and any additional class representatives necessary to adequately represent the class;

B. Restoring and awarding Plaintiffs and Class members all ascertainable amounts, losses, refunds, including the purchase price paid for A Million Little Pieces, any statutorily permissible damages, attorneys' fees, expenses, and costs;

C. Mandating Defendants to disgorge and then restore and/or make restitution of any money to the representative Plaintiffs and to each Class member which may have been acquired by Defendants by means of its unlawful conduct alleged in this complaint;

D. Enjoining Defendants from engaging in similar unlawful acts or practices in the future;

E. Awarding Plaintiffs and the other members of the Class damages in an amount necessary to compensate them fully for their losses, together with interest;

F. For costs of suit and attorneys' fees;

G. For such other and further relief which the Court deems necessary, just and proper.

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X.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: January 27, 2006

Respectfully submitted,

Hector G. Gancedo (SBN 132139)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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| GARRETT HAUENSTEIN and JEAN TAYLOR, as individuals and on behalf of a class of those similarly situated;<br><br>Plaintiffs,<br><br>vs.<br><br>JAMES CHRISTOPHER FREY, BIG JIM INDUSTRIES, INC., RANDOM HOUSE, INC., DOUBLEDAY & COMPANY, INC. and DOES 1 through 50, inclusive,<br><br>Defendants. | Case No.<br><br>**CLASS ACTION COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF BASED ON:**<br><br>1. Violation of California Civil Code Section 1750, *et seq.*<br><br>2. Violation of Business and Professions Code section 17200, *et seq.*<br><br>3. Violation of Business and Professions Code section 17500, *et seq.*<br><br>4. Negligent Misrepresentation<br><br>5. Fraud<br><br>**Jury Trial Demanded** |

All allegations made in this Complaint are based upon information and belief except those allegations which pertain to Plaintiff, which are based upon personal knowledge. Plaintiff's information and belief are based upon, *inter alia*, Plaintiff's own investigation and investigation conducted by Plaintiff's counsel.

I.

## NATURE OF THE ACTION

1. This action seeks relief against James Frey, Random House, Inc., Doubleday & Company, Inc. and Does 1 through 50 (collectively referred to as "Defendants") for monetary, injunctive, equitable and declaratory relief for the Class members Jean Taylor and Garrett Hauenstein represent and for the general public of the State of California who have been exposed to Defendants' illegal business practices in violation of California Civil Code Section 1750, *et seq*, Business and Professions Code Section 17200 *et seq.*, Business and Professions Code Section 17500 *et seq.*, negligent misrepresentation and fraud.

2. This consumer class and private attorney general action arises from the Defendants' misrepresentation of James Frey's book, "A Million Little Pieces," as a true and honest work of non-fiction to induce sales, when in fact Defendants knew the book was a work of fiction.

II.

## JURISDICTION AND VENUE

3. This Court has jurisdiction over this class action under Article 6, Section 10 of the California Constitution, and Section 410.10 of the California Code of Civil Procedure. Federal jurisdiction does not exist in this case because there is no federal question implicated and each Class member's claim for relief will not exceed the federal jurisdictional minimum of $75,000.

4. This court has jurisdiction over James Frey because he conducts substantial business in the State of California. Mr. Frey has sufficient minimum contacts with California and otherwise intentionally avails himself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

5. This court has jurisdiction over Big Jim Industries, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Big

Jim Industries, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

6. This court has jurisdiction over Random House, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Random House, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

7. This court has jurisdiction over Doubleday & Company, Inc. because it is a corporation or association authorized to do and conduct substantial business in the State of California. Doubleday & Company, Inc. has sufficient minimum contacts with California and otherwise intentionally avails itself of the laws and markets of California, through the promotion, sale, marketing and distribution of products or services in California, to render the exercise of jurisdiction by the California courts permissible, under traditional notions of fair play and substantial justice.

8. Venue is proper within this judicial district under Code of Civil Procedure Section 395 because a substantial part of the acts, conduct, events or omissions alleged herein occurred or will occur within Los Angeles County and in the State of California, and Defendants conduct substantial business with consumers who reside in Los Angeles County and the State of California.

## III.

## THE PARTIES

9. Plaintiff Jean Taylor is an adult individual residing in Los Gatos, California. Plaintiff Taylor purchased the book on or about October 27, 2005 at a Costco warehouse store.

10. Plaintiff Garrett Hauenstein is an adult individual residing in Los Angeles,

California. Plaintiff Gauenstein purchased the book on or about October 9, 2005 at a Barnes & Noble bookstore.

11. Defendant James Frey is an individual residing in New York and doing business in the State of California and the County of Los Angeles.

12. Defendant Big Jim Industries, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

13. Defendant Random House, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

14. Defendant Doubleday & Company, Inc. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles. is a New York corporation registered to do business in the State of California, and doing business in the State of California and the County of Los Angeles.

15. The true names and capacities, whether individual, corporate, associate or otherwise of the defendants Does 1 through 50, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names pursuant to Code of Civil Procedure § 474; Plaintiff further alleges that each of said fictitious Defendants is in some manner responsible for the acts and occurrences hereinafter set forth. Plaintiff will amend this Complaint to show their true names and capacities when same are ascertained, as well as the manner in which each fictitious Defendant is responsible.

## IV.

## FACTUAL BACKGROUND

16. On or about May 2003, Random House, Inc. and Doubleday & Company, Inc. published James Frey's book A Million Little Pieces.

17. Random House, Inc., Doubleday & Company, Inc. and author Frey represented the work as a "Memoir." These representations were made on the book's cover, in media press

kits, in television and newspaper interviews and at personal appearances by author Frey.

18. According to Random House, Inc., Doubleday & Company, Inc. and author Frey, A Million Little Pieces is a true account of Frey's criminal past, rampant drug and alcohol abuse, and inspiring recovery at a Minnesota rehabilitation facility. On this basis, author Frey's memoir became a publishing phenomenon.

19. More than 3.5 million copies of A Million Little Pieces have sold. More than 2.1 million copies of A Million Little Pieces sold after television personality Oprah Winfrey selected it for her popular book club. Ms. Winfrey's stamp of approval is known for turning unknown authors into best-sellers overnight.

20. On October 26, 2005, Ms. Winfrey interviewed author Frey on The Oprah Winfrey Show. On the program, author Frey tearfully represented to millions of television viewers that his memoir was an honest work of non-fiction. Relying on these representations, Ms.Winfrey lauded the memoir she believed to be true as a "mesmerizing story." Sales skyrocketed.

21. Among the millions of viewers who witnessed author Frey on The Oprah Winfrey Show was plaintiff Jean Taylor. Mrs. Taylor was captivated by author Frey's purportedly true story of redemption. Frey's representations on The Oprah Winfrey Show caused Mrs. Taylor to visit a Costco warehouse store the following day specifically to purchase a copy of A Million Little Pieces. She did in fact purchase of copy of A Million Little Pieces that day.

22. Garrett Hauenstein was motivated to purchase a copy of A Million Little Pieces after learning through the media of author Frey's truthful and inspiring account of overcoming drug and alcohol addiction. Mr. Hauenstein had recently ceased using alcohol. He purchased a copy of A Million Little Pieces at a Barnes & Noble bookstore.

23. Random House, Inc., Doubleday & Company, Inc. and author Frey have profited handsomely from A Million Little Pieces, reaping millions of dollars in profits. Additionally, author Frey, just a few years removed from his life as a struggling Hollywood screenwriter, parlayed the success of A Million Little Pieces into numerous lucrative movie deals.

24. Despite Random House, Inc., Doubleday & Company, Inc. and author Frey's representations, A Million Little Pieces has been exposed as a work of fiction.

25. The fraud was initially exposed in a lengthy expose' published by The Smoking Gun web site on January 8, 2006. Among the "truths" debunked is author Frey's claim to have spent three months in an Ohio jail, an incident that he infers that precipitated the suicide of his love interest "Lilly." In truth, he spent only a few hours in jail. The existence of "Lilly" and her purported suicide is now in question. Also disproved was author Frey's claim to have struck a police officer with a car. In A Million Little Pieces," this harrowing incident results in a wrestling match with the officer and the prospect of years behind bars for Frey, which fuels the second half of the book. In truth, his car struck a curb and he was ticketed for driving under the influence. These falsehoods have called into question the truthfulness of every person and event in the memoir, including author Frey's criminal past, his molestation by a priest in France, physical altercations with other rehabilitation facility residents, root canal procedure without pain medication, and even the existence of facility residents such as author Frey's lover "Lilly," mafioso friend "Leonard," other facility residents. These elements and many others like them bolster the story's narrative and make author Frey a compelling anti-hero. As such, they play a critical role in author Frey's memoir of redemption. Without them, A Million Little Pieces is indistinguishable literally from thousands of other works of fiction published each year.

26. On a January 11, 2006 appearance on the nationally televised Larry King Live show, author Frey himself concedes A Million Little Pieces is a "subjective retelling of events," and he acknowledged embellishments and outright falsehoods. Author Frey also stated he originally submitted A Million Little Pieces to Random House, Inc. for consideration as a work of fiction, but that it was rejected, and that Random House, Inc. and Doubleday & Company, Inc. only purchased the book after author Frey repackaged the same story as non-fiction. Author Frey further stated that Random House, Inc. and Doubleday & Company, Inc. had not decided whether to publish A Million Little Pieces as fiction or non-fiction even *after* they purchased the book, indicating Random House, Inc. and Doubleday & Company, Inc. knew or should have known A

Million Little Pieces was not a true and honest work of non-fiction. During the telecast, Oprah Winfrey appeared via telephone and supported author Frey and his memoir. Ms. Winfrey's continued support enabled A Million Little Pieces to remain at the top of the bestseller lists and Random House, Inc., Doubleday & Company, Inc. and author Frey to reap additional untold profits.

27. On a January 26, 2006 re-appearance on The Oprah Winfrey Show, author Frey was confronted by the formerly supportive Ms.Winfrey who said she felt "duped" and believed the author "betrayed millions of readers" by making up elements of his life. Ms. Winfrey noted that her staff had been alerted to possible discrepancies in author Frey's book, only to be assured by Random House, Inc that the memoir was true, precipitating her support on the Larry King Live show. Commenting on the Smoking Gun expose, author Frey stated "Most of what they wrote is pretty accurate." Author Frey said he had made up many of the details of his life and had created a bad-guy portrayal of himself as a "coping mechanism." He also stated "I made a lot of mistakes in writing the book and promoting the book." Pressing further, Ms. Winfrey asked if he made up the material because it helped him cope or because he thought it would help sell books. Author Frey responded, "Probably both." Frey's admissions cast doubt on the truthfulness of each and every page.

28. Also on the January 26, 2006 Oprah Winfrey Show, publisher Nan A. Talese, representing Random House, Inc. and Doubleday & Company, Inc. told Ms. Winfrey that Random House and Doubleday editors who read the A Million Little Pieces raised no questions about its many incredible elements and that it received legal vetting. She acknowledged A Million Little Pieces had not been fact-checked and that future copies would carry a disclaimer informing consumers of the book's fictional nature.

29. Also on January 26, 2006, motivated by the blatant admissions of fraud and negligence made by author Frey and Random House, Inc. representative Nan A. Talese on The Oprah Winfrey Show, Random House, Inc. and Doubleday & Company, Inc. issued a press release accepting responsibility for representing A Million Little Pieces to be a memoir rather

than a work of fiction. (See "News from Doubleday & Anchor News" press release, attached hereto as Exhibit "A"). In part, the press release reads: "[i]t is not the policy or stance of this company that it doesn't matter whether a book sold as nonfiction is true."

V.

FACTS REGARDING DEFENDANTS' UNLAWFUL CONDUCT

30. Author Frey fraudulently represented his book A Million Little Pieces to be a true and honest work of non-fiction at personal appearances, in print and on televison, including, but not limited to The Oprah Winfrey Show.

31. Random House, Inc. and Doubleday & Company, Inc. fraudulently represented and promoted the book A Million Little Pieces to be a true and honest work of non-fiction, on the book's cover, through press kits, promotions, press releases and various other media channels, including but not limited to, the New York Times, USA Today, Amazon, Barnes & Noble and other best-sellers lists.

VI.

CLASS ALLEGATIONS

32. Plaintiffs brings this action, on behalf of themselves and all others similarly situated, as a class action pursuant to California Code of Civil Procedure Section 382 and California Civil Code Section 1781. The Class which Plaintiffs seeks to represent ("The Plaintiff Class") is defined as follows:

> **All consumers in California who purchased the book A Million Little Pieces from the time it was initially published through the present (the "Class Period").**

33. Excluded from the Class are Defendants in this action, any entity in which Defendants have a controlling interest, any officers or directors of Defendants, the legal representatives, heirs, successors, and assigns of Defendants, and any judicial officer assigned to this matter.

34. Plaintiffs reserve the right, upon completion of discovery with respect to the scope of the Class and the Class Period to amend the definitions set forth above.

35. The members of the Class are so numerous and geographically diverse that joinder of all of them is impracticable. Plaintiffs believe, and therefore aver, that there are more than tens of thousands of members of the Class within California and a multiple thereof nationwide.

36. Plaintiffs, who are members of the Class as indicated, have suffered harm, are committed to pursuing this action, and have retained competent counsel experienced in class action litigation and in litigation of this nature. Accordingly, Plaintiffs are adequate representatives of the Class because they have the same interests as all the members of the Class, their claims are typical of the claims of the members of the Class, and they will fairly and adequately protect the interests of the Class.

37. There are questions of law and fact common to members of the Class that predominate over any questions affecting any individual members including, inter alia, the following:

(a) Whether Defendants' false and/or misleading statements of fact and concealment of material facts, to the Class and the public were likely to deceive the Class and the public;

(b) Whether Defendants', by their conduct as set forth herein, has engaged in unfair, deceptive, untrue, or misleading statements about the truthfulness of A Million Little Pieces;

(c) Whether Defendants' conduct caused damages for which Defendants are liable;

(d) Whether, as a result of Defendants' misconduct, Plaintiff and the Class are entitled to damages, restitution, injunctive, equitable and other relief, and the amount and nature of such relief.

38. The likelihood that individual members of the Class will prosecute separate and individual actions is remote due to the relatively small — albeit substantial in the aggregate — actual and potential damages to be suffered by each member of the Class compared to the losses

suffered by the Class as a whole compared to the burden and expense of prosecuting litigation of this nature and magnitude. Plaintiff envisions no difficulty in the management of this action as a Class Action.

39. For the reasons stated above, a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy.

## VII.

## PRIVATE ATTORNEY GENERAL ALLEGATIONS

40. Plaintiffs assert claims in this action as a private attorney general on behalf of members of the general public residing within the State of California pursuant to California Business and Professions Code section 17204 in order to enjoin defendants from engaging in the unfair, unlawful and deceptive business practices alleged in this Complaint and to require Defendants to set up a restitutionary account to disgorge and restore to the members of the general public residing within the State of California all monies wrongfully obtained by Defendants through their unlawful business practices. A private attorney general action is necessary and appropriate because Defendants have engaged in the wrongful acts described herein as a general business practice.

## VIII.

## FIRST CAUSE OF ACTION

**(All Defendants - Violations of the Consumer Legal Remedies Act - Injunctive Relief Only)**

41. Plaintiff incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

42. The Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, et seq. (the "Act"), provides California consumers with a comprehensive procedure for redressing Defendant's violations of various statutory rights.

43. Defendants' misrepresentation of A Million Little Pieces, which is a "good" under section 1761(a), as a true and honest work of non-fiction has violated, and continues to

violate, the CLRA in at least the following respects:

(a) In violation of section 1770(a)(2) of the CLRA, Defendants' have misrepresented the sponsorship, approval or certification of the goods or services in question;

(b) In violation of section 1770(a)(5) of the CLRA, Defendants' acts and practices constitute representations that the goods or services in question have approval, characteristics, uses or benefits which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he or she does not have;

(c) In violation of section 1770(a)(7) of the CLRA, Defendants' acts and practices constitute representations that the goods or services in question are of a particular standard, quality or grade, when they are not;

(d) In violation of section 1770(a)(9) of the CLRA, Defendants' acts and practices constitute the advertisement of goods in questions without the intent to sell them as advertised;

(e) In violation of section 1770(a)(16) of the CLRA, Defendants' acts and practices constitute representations that the subject of the transaction has been supplied in accordance with previous representations when it has not.

44. By reason of the foregoing, Plaintiffs and Class members have been irreparably harmed, entitling them to both injunctive relief and restitution.

45. Pursuant to section 1782 of the Act, Plaintiffs notified Defendants in writing, dated January 27, 2006, of the particular violations of section 1770 of the Act. Plaintiffs demanded Defendants rectify the actions described above by providing complete monetary relief, agreeing to be bound by their legal obligations and give notice to all affected customers of their intent to do so. Plaintiffs sent this notice by certified mail, return receipt requested, to Defendants' principal places of business.

46. If Defendant fails to respond to plaintiff's demand within 30 days of the letter pursuant to section 1782 of the Act, Plaintiffs will amend this Complaint to add claims for actual, punitive and statutory damages. Plaintiffs are already entitled to the relief set forth above, along

with costs, attorneys' fees and any other relief which the Court deems proper.

**SECOND CAUSE OF ACTION**
**(All Defendants - Unlawful Business Practices -**
**Violation of Business and Professions Code Section 17200)**

47. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

48. Plaintiffs assert this claim against Defendants for unlawful business practices pursuant to California Business and Professions Code Sections 17200 *et seq.* which prohibits all unlawful or unfair business practices and/or acts. These statutes are liberally construed to protect California consumers.

49. Plaintiffs asserts their claim as a member of an aggrieved class of persons who have expended funds that Defendants should be required to reimburse under the restitutionary remedy specified in Business & Professions Code section 17203.

50. Defendants represented A Million Little Pieces to be a true and honest work of non-fiction, which it is not, rendering Defendants' representations unfair, untrue, misleading and/or likely to deceive Plaintiffs, members of the Class and the general public.

51. Defendants' practices deceived consumers who trusted Defendants' representations that A Million Little Pieces is a true and honest work of non-fiction, which it is not. As such, Defendants' representations are unlawful and constitute an "unfair business practice."

52. By acting as alleged herein, Defendant employed unconscionable commercial practices, deception, false advertising, false promises and misrepresentation to lure consumers to purchase A Million Little Pieces.

53. The practices of the Defendants have injured Plaintiffs and members of the Class by causing them spend money on a book they otherwise would not have purchased, and/or in the alternative, by decreasing the value and enjoyment of the purchased book.

54. The unlawful acts and practices of Defendant as alleged above constitute unlawful business practices within the meaning of California Business and Professions Code Section 17200, *et seq.*

**THIRD CAUSE OF ACTION**
**(All Defendants - Violation of Business and Professions Code Section 17500, *et seq.*)**

55. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

56. During the class period Defendants have committed acts of untrue and misleading advertising, as defined by Business and Professions Code section 17500, by engaging in acts and practices with intent to induce consumers to purchase A Million Little Pieces. The following acts and practices, among others, created a likelihood of confusion and misunderstanding in connection with the sale of A Million Little Pieces:

(a) Author Frey fraudulently represented his book A Million Little Pieces to be a true and honest work of non-fiction at personal appearances, in print and on televison, including, but not limited to The Oprah Winfrey Show.

(b) Random House, Inc. and Doubleday & Company, Inc. represented and promoted the book A Million Little Pieces to be a true and honest work of non-fiction on the book's cover, through press kits, promotions, press releases and various other media channels, including but not limited to, the New York Times, USA Today, Amazon, and Barnes & Noble best-sellers lists.

57. Plaintiffs and other members of the Class relied on and were deceived by Defendants' false and deceptive advertisements and practices as set forth above, and as a direct and proximate result of the aforementioned acts, Defendants received and continue to hold ill-gotten gains belonging to Plaintiff and members of the Class.

58. In addition to the relief requested in the Prayer below, Plaintiffs seek the imposition of a constructive trust over, and restitution and disgorgement of, the monies collected

and profits realized by Defendants, and each of them, as well as injunctive relief, including an order requiring them to cease from false and misleading advertising of A Million Little Pieces.

**FOURTH CAUSE OF ACTION**
**(All Defendants - Negligent Misrepresentation)**

59. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

60. Defendants recklessly or negligently misrepresented or concealed facts relating to the fictional nature of A Million Little Pieces and represented it as a true and honest work of non-fiction.

61. The facts misrepresented or omitted by Defendants were and are material.

62. Plaintiffs and other members of the Class, believing Defendants' representations that A Million Little Pieces was a true and honest work of non-fiction, and without means to know otherwise, reasonably relied upon Defendants' misrepresentations, omissions and other practices, directly or indirectly, and purchased said book.

63. Plaintiffs and the other members of the Class have thereby been damaged, the exact amount of which is presently unknown, but is capable of being ascertained.

64. As a result of Defendants' practices as set forth herein, Defendants are liable to Plaintiffs and the other members of the Class for compensatory damages, interest and costs.

**FIFTH CAUSE OF ACTION**
**(All Defendants - Fraud)**

65. Plaintiffs incorporates by reference all previous paragraphs of this Complaint as if fully set forth, and further alleges as follows. This cause of action is brought on behalf of Plaintiffs and the Class against all Defendants.

66. Defendants carried out a fraudulent scheme in which they made representations that A Million Little Pieces was a true and honest work of non-fiction, including, but not limited to, through the following media:

(a) In the February 3, 2003 edition of the New York Observer, author Frey states of A Million Little Pieces, "All that matters is what the feelings are and what the events are." "It's not about all this trickery. When I think about writing, I have a very simple formula: Where was I? Who was I with? What happened? And how did it make me feel? Those are the only important things..." In reaction to mention of other popular authors, Frey states:"I think my approach to telling a story couldn't be more different than theirs is." "I think they're full of bells and whistles and tricks and being cute and being ironic and being all this shit. To be honest, I don't understand it. It's not how I think or how I feel...".

(b) In the April 4, 2003 issue of the national magazine Entertainment Weekly, author Frey spoke of the value truth brings to his book, stating: "Books about addicted people are often written in a way that makes them sound cool...and it's not cool or fun or glorious or romantic. It's just awful... [w]hen I wrote the last words, I burst out in tears for about an hour...[j]ust bawled at my desk." Aiding in Frey's misrepresentation of A Million Little Pieces was Frey's Random House, Inc. editor, Sean McDonald, who discussed author Frey's memoir, stating "His book is not just mouthing off," he says, "which is what James can do in interviews. And clearly, there's some fear that people would treat the book the same way, which would be terrible."

(c) In the April 21, 2003 edition of the Chicago Sun-Times, author Frey stated of criticism of A Million Little Pieces and its truthfulness,"I didn't set out to be anything but a great writer. I don't care if somebody calls me a 'literary bad boy' and I don't care if they don't. It's not any of my concern. People can say whatever they want about me. And I know that's gonna happen, and I'm fully prepared for it to happen. My concern is what I do when I sit down and I work. And my concern is if I can look myself in the mirror when I wake up in the morning. And my concern is if I make my family and my wife and the people I work with proud of me. Beyond that, I don't give a s---."

(d) In the May 6, 2003 edition of the Cleveland Plain Dealer, author Frey states:"The publisher contacted the people I wrote about in the book," he said. "All the events depicted in the book checked out as factually accurate. I changed people's names. I do believe in the anonymity part of AA. The only things I changed were aspects of people that might reveal their identity. Otherwise, it's all true."

(e) In a May 20, 2003 interview published in the Los Angeles Times, author Frey said of his memoir, "I was trying to keep it as honesty-based as possible." "I don't think anyone's written about detox the way I have." "Maybe other writers have forgotten how awful it is or maybe they're worried that if they write about how awful it is, it'll turn people off" "When you detoxify yourself, you throw up constantly. You're sick, constantly. Your body is an utter disaster. I tried to write what I experienced." When he sat down to write A Million Little Pieces, he explained, the trend toward irony was at its height, but it wasn't an approach he wanted to follow. "I think the best literature, the best writing, is honest and true." He wrote the memoir, in some ways, he explained, to honor the people who'd been in rehab with him, many of whom have since died from the consequences of their addictions. "You have to be earnest and sentimental to do that."

(f) In the July 27, 2003 edition of the Minneapolis Star Tribune, Random House, Inc. editor Nan A. Talese defended the truthfulness of A Million Little Pieces, stating, "You have to remember when someone is writing in the first person, it is their memory as they recall it" "And memory is very selective; there's no such thing as the whole story. If they took a lie-detector test it would probably be true, but if that person had a witness all the way through, maybe it didn't exactly happen that way. But that's how they see it." Talese also stated, "Our lawyers are very, very careful."

(g) In late 2005, author Frey published a message to individuals critical of A Million Little Pieces and its truthfulness on his Bigjimindustries.com web site: "Let the haters hate, let the doubters doubt, I stand by my book, and my life, and I won't dignify this (sic) with any sort of further response."

(h) On the October 26, 2005 episode of The Oprah Winfrey Show, author Frey stated, ""If I was gonna write a book that was true, and I was gonna write a book that was honest, then I was gonna have to write about myself in very, very negative ways."

(i) On the January 11, 2006 episode of Larry King Live, author Frey commented on A Million Little Pieces' account of his time in a Minnesota rehabilitation facility, stating "As I've said and I'll continue to say, this is the true story of what I went through there."

(j) On January 11, 2006, Random House, Inc. issued a press release stating "We're standing by our author." The press release also noted author Frey's memoir was "highly personal" and said that Mr Frey had represented to the publisher that the story was "true to his recollections."

(k) As of January 27, 2006, Random House, Inc.'s web site promoted A Million Little Pieces as "an uncommonly genuine account of a life destroyed and a life reconstructed."

67. When Defendants made their representations they knew them to be false.

68. When Defendants made these false representations they made them with the intention to induce their customers to act in reliance on the representations made, or with the expectation that their customers would so act.

69. Plaintiffs and the Class purchased A Million Little Pieces based upon Defendants' representations it was a true and honest work of non-fiction. As such, Defendants' representations were material.

70. Defendants had exclusive knowledge of material facts not known to the plaintiffs or the Class.

71. Plaintiffs were ignorant of the falsity of Defendants' representations and believed them to be true. In reliance of these representations, Plaintiffs were induced to and did purchase A Million Little Pieces. Had Plaintiffs and the Class known the actual facts, they would not have purchased the book. Plaintiffs and the Class' reliance on Defendants' representations was justified because Defendants' continued their fraudulent scheme of misrepresenting the true nature of A Million Little Pieces throughout the Class Period.

72. As a direct and proximate result of Defendants' fraudulent conduct, Plaintiffs and members of the Class have suffered damages and economic loss in an amount to be proven at

trial.

73. In perpetrating the fraud alleged herein, Defendants acted in a willful, wanton and malicious manner, in callous, conscious and intentional disregard for the rights of Plaintiffs and members of the Class, and with knowledge that their actions and conduct were substantially likely to vex, annoy and injure Plaintiff and members of the Class. As a result thereof, Plaintiffs and members of the Class are entitled to an award of punitive and exemplary damages against Defendants, pursuant to *California Civil Code* section 3294, in an amount according to proof at trial.

## IX.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

A. Ordering that the action be maintained as a California state class action, certifying the proposed class, and appointing Plaintiffs and their undersigned counsel of record and any additional class representatives necessary to adequately represent the class;

B. Restoring and awarding Plaintiffs and Class members all ascertainable amounts, losses, refunds, including the purchase price paid for A Million Little Pieces, any statutorily permissible damages, attorneys' fees, expenses, and costs;

C. Mandating Defendants to disgorge and then restore and/or make restitution of any money to the representative Plaintiffs and to each Class member which may have been acquired by Defendants by means of its unlawful conduct alleged in this complaint;

D. Enjoining Defendants from engaging in similar unlawful acts or practices in the future;

E. Awarding Plaintiffs and the other members of the Class damages in an amount necessary to compensate them fully for their losses, together with interest;

F. For costs of suit and attorneys' fees;

G. For such other and further relief which the Court deems necessary, just and proper.

///

X.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: January 27, 2006

Respectfully submitted,

Hector G. Gancedo (SBN 132139)
Amy M. Boomhouwer (SBN 221869)
Christopher W. Taylor (SBN 236245)
GANCEDO & NIEVES LLP

By: ______________________
Christopher W. Taylor
144 W. Colorado Boulevard
Pasadena, California 91105
Tel: (626) 685-9800
Fax: (626) 685-9808

Attorneys for Plaintiff

# AFFIDAVIT OF JEAN TAYLOR

I, Jean Taylor, declare as follows based on personal knowledge and if called upon could and would competently testify thereto:

1. I am a plaintiff in the named action.

2. I originally commenced this action in the proper county or judicial district under Civil Code § 1780(c) because the entities against whom I brought this action do business in the county where the transaction at issue or a substantial portion thereof occurred and at least some members of the Class reside in this county.

Executed on this 27th day of January, 2006.

[signature]
Jean Taylor

# AFFIDAVIT OF GARRETT HAUENSTEIN

I, Garrett Hauenstein, declare as follows based on personal knowledge and if called upon could and would competently testify thereto:

1. I am a plaintiff in the named action.

2. I originally commenced this action in the proper county or judicial district under Civil Code § 1780(c) because the entities against whom I brought this action do business in the county where the transaction at issue or a substantial portion thereof occurred and at least some members of the Class reside in this county.

Executed on this 27th day of January, 2006.

Garrett Hauenstein

*News from*
**Doubleday & Anchor Books**

The controversy over James Frey's A MILLION LITTLE PIECES has caused serious concern at Doubleday and Anchor Books. Recent interpretations of our previous statement notwithstanding, it is not the policy or stance of this company that it doesn't matter whether a book sold as nonfiction is true. A nonfiction book should adhere to the facts as the author knows them.

It is, however, Doubleday and Anchor's policy to stand with our authors when accusations are initially leveled against their work, and we continue to believe this is right and proper. A publisher's relationship with an author is based to an extent on trust. Mr. Frey's repeated representations of the book's accuracy, throughout publication and promotion, assured us that everything in it was true to his recollections. When the Smoking Gun report appeared, our first response, given that we were still learning the facts of the matter, was to support our author. Since then, we have questioned him about the allegations and have sadly come to the realization that a number of facts have been altered and incidents embellished.

We bear a responsibility for what we publish, and apologize to the reading public for any unintentional confusion surrounding the publication of A MILLION LITTLE PIECES.

We are immediately taking the following actions:

- We are issuing a publisher's note to be included in all future printings of the book.

- James Frey is writing an author's note that will appear in all future printings of the book.

- The jacket for all future editions will carry the line "With new notes from the publisher and from the author."

- Although demand for the book remains high, we are not currently reprinting or fulfilling orders until we make the above changes.

- The publisher's note and author's note will be posted prominently on the randomhouse.com website.

- The publisher's note and author's note will promptly be sent to booksellers for inclusion in previously shipped copies of the book.

- An advertisement concerning these developments will appear in national and trade publications in the next few days.

David Drake
VP and Director of Publicity
Doubleday Books
ddrake@randomhouse.com
212/782-9001

Russell Perreault
VP and Director of Publicity
Anchor Books
rperreault@randomhouse.com
212-572-2080

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
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Christopher Taylor (SBN 236245)
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ATTORNEY FOR (Name) Plaintiffs

FOR COURT USE ONLY

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court
JAN 27 2006
John A. Clarke, Executive Officer/Clerk
By ________ Deputy
D. GILES

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS 111 North Hill Street
MAILING ADDRESS Los Angeles, CA 90012-3014
CITY AND ZIP CODE
BRANCH NAME CENTRAL DISTRICT

CASE NAME HAUENSTEIN ET AL. vs. JAMES FREY, ET AL.

**CIVIL CASE COVER SHEET**
x Unlimited (Amount demanded exceeds $25,000) — Limited (Amount demanded is $25,000 or less)

**Complex Case Designation**
Counter — Joinder
Filed with first appearance by defendant (Cal Rules of Court, rule 1811)

CASE NUMBER BC345567
JUDGE
DEPT

*Items 1-5 below must be completed (see instructions on page 2)*

1 Check one box below for the case type that best describes this case.

**Auto Tort**
Auto (22)
Uninsured motorist (46)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**
Asbestos (04)
Product liability (24)
Medical malpractice (45)
Other PI/PD/WD (23)

**Non-PI/PD/WD (Other) Tort**
x Business tort/unfair business practice (07)
Civil rights (08)
Defamation (13)
x Fraud (16)
Intellectual property (19)
Professional negligence (25)
Other non-PI/PD/WD tort (35)

**Employment**
Wrongful termination (36)
Other employment (15)

**Contract**
Breach of contract/warranty (06)
Collections (09)
Insurance coverage (18)
Other contract (37)

**Real Property**
Eminent domain/Inverse condemnation (14)
Wrongful eviction (33)
Other real property (26)

**Unlawful Detainer**
Commercial (31)
Residential (32)
Drugs (38)

**Judicial Review**
Asset forfeiture (05)
Petition re arbitration award (11)
Writ of mandate (02)
Other judicial review (39)

**Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800–1812)**
Antitrust/Trade regulation (03)
Construction defect (10)
Mass tort (40)
Securities litigation (28)
Environmental/Toxic tort (30)
Insurance coverage claims arising from the above listed provisionally complex case types (41)

**Enforcement of Judgment**
Enforcement of judgment (20)

**Miscellaneous Civil Complaint**
RICO (27)
Other complaint (not specified above) (42)

**Miscellaneous Civil Petition**
Partnership and corporate governance (21)
Other petition (not specified above) (43)

2. This case x is — is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management.
a x Large number of separately represented parties
b x Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. x Substantial amount of documentary evidence
d x Large number of witnesses
e Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. x Substantial postjudgment judicial supervision

3 Type of remedies sought (check all that apply):
a x monetary b nonmonetary; declaratory or injunctive relief c punitive

4 Number of causes of action (specify): Five

5 This case x is — is not a class action suit.

6 If there are any known related cases, file and serve a notice of related case. (You may use form CM-015).

Date: January 27, 2006

Christopher W Taylor
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code) (Cal. Rules of Court, rule 201.8) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding
- Unless this is a complex case, this cover sheet will be used for statistical purposes only

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev January 1 2006]

CIVIL CASE COVER SHEET

Legal Solutions Plus

Cal Rules of Court, rules 201.8, 1800-1812
Standards of Judicial Administration § 19

# INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers**

If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed You must complete items 1 through 5 on the sheet. In item 1, you must check one box for the case type that best describes the case If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 201 8(c) and 227 of the California Rules of Court.

**To Parties in Complex Cases**

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex If a plaintiff believes the case is complex under rule 1800 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex

## CASE TYPES AND EXAMPLES

**Auto Tort**
- Auto (22)-Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

**Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort**
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e g , slip and fall)
  - Intentional Bodily Injury/PD/WD (e g , assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e g , discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e g , slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

**Employment**
- Wrongful Termination (36)
- Other Employment (15)

**Contract**
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
    - Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach-Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e g , money owed, open book accounts) (09)
  - Collection Case-Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

**Real Property**
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

**Unlawful Detainer**
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential )*

**Judicial Review**
- Asset Forfeiture (05)
- Petition Re Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rule 1800-1812)**
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

**Enforcement of Judgment**
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

**Miscellaneous Civil Petition**
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

# LOS ANGELES SUPERIOR COURT
# ALTERNATIVE DISPUTE RESOLUTION (ADR) PROGRAMS

CRC 201.9(c)
Information about Alternative Dispute Resolution

The plaintiff shall serve a copy of the ADR information package on each defendant along with the complaint.

## ADR PROGRAMS

"Alternative Dispute Resolution (ADR)" is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes such as arbitration, mediation and settlement conferences are less formal than court and provide opportunities for litigants to reach an agreement using a problem-solving approach rather than the more adversarial approach of litigation.

**MEDIATION** A neutral third party called a "mediator" helps participants in the dispute create their own resolution. The mediator helps facilitate a discussion in which the parties reach a mutually agreed upon settlement. Therefore, mediation allows for more creative resolutions to disputes than other ADR processes.

The Court Mediation Program is governed by Code of Civil Procedure (CCP) 1775-1775.15, California Rules of Court (CRC) 1620-1622 and 1630-1639, Evidence Code 1115-1128, and Los Angeles Superior Court (LASC) Rules Chapter 12.

**ARBITRATION** A neutral third party called an "arbitrator" listens to each side in the dispute present its case. The arbitrator, who is an attorney, issues a decision based on the evidence. Although evidence is presented, arbitration is a less formal process than litigation. The decision is non-binding unless the parties agree in writing to binding arbitration.

The Court Arbitration Program is governed by Code of Civil Procedure (CCP) 1141.10-1141.31, California Rules of Court (CRC) 1600-1618, and Los Angeles Superior Court (LASC) Rules Chapter 12.

**SETTLEMENT CONFERENCE** A neutral third party called a settlement officer, who is also a retired judge, assists the parties in negotiating their own settlement and may evaluate the strengths and weaknesses of the case.

## JURISDICTIONAL LIMITATIONS

**MEDIATION & ARBITRATION** Any case in which the amount in dispute is between $25,000-$50,000 per plaintiff, and was not previously referred to the Court ADR Program, can be sent to the Court ADR Program for mediation or arbitration by stipulation, elect ion by plaintiff or order of the court.

Parties may *voluntarily* request or initiate a mediation or arbitration proceeding, regardless of the amount in dispute.

**SETTLEMENT CONFERENCE** Any case, regardless of the amount in dispute, may be ordered to a settlement conference. There is no monetary limit.

## REFERRAL INFORMATION

After the Court determines the suitability of a case for ADR, the Court directs the parties to the ADR Department to initiate the ADR process. Once the parties have completed the ADR intake forms, a Neutral may be selected.

## NEUTRAL SELECTION

Parties may select a mediator or arbitrator from the Court Party Pay Panel or Pro Bono Panel or may hire someone privately, at their discretion. Parties are assigned to a settlement officer by court staff.

**PARTY PAY PANEL** The Party Pay Panel consists of mediators and arbitrators who have achieved a specified level of experience in court-connected cases. The parties (collectively) may be charged $150.00 per hour for the first three hours of hearing time. Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the mediator or arbitrator if the parties consent in writing.

**PRO BONO PANEL** The Pro Bono Panel consists of trained mediators and arbitrators who have not yet gained the experience to qualify for the Party Pay Panel and experienced mediators and arbitrators who make themselves available pro bono. Mediators and arbitrators donate their time to the courts as a way of supporting the judicial system. It is the policy of the Court that all pro bono volunteer mediators and arbitrators provide three hours hearing time per case. Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the mediator or arbitrator if the parties consent in writing.

**PRIVATE NEUTRAL** The market rate for private neutrals can range from $200-$1,000 per hour.

For additional information, visit the Court ADR web application at www.lasuperiorcourt.org (click on ADR).

Partially Funded by the Los Angeles County Dispute Resolution Program

# LOS ANGELES COUNTY
# DISPUTE RESOLUTION PROGRAMS ACT (DRPA) CONTRACTORS

The following organizations provide mediation services under contract with the Los Angeles County Department of Community & Senior Services. Services are provided to parties in any civil case filed in the Los Angeles County Superior Court. Services are not provided under this program to family, probate, traffic, criminal, appellate, mental health, unlawful detainer/eviction or juvenile court cases.

**Asian-Pacific American Dispute Resolution Center**
**(213) 250-8190**
(Spanish & Asian languages capability)

**California Academy of Mediation Professionals**
**(818) 377-7250**

**Center for Conflict Resolution**
**(818) 380-1840**

**Inland Valleys Justice Center**
**(909) 397-5780**
(Spanish language capability)

**Office of the Los Angeles City Attorney Dispute Resolution Program**
**(213) 485-8324**
(Spanish language capability)

**Los Angeles County Bar Association Dispute Resolution Services**
**toll free number 1-877-4Resolve (737-6583) or (213) 896-6533**
(Spanish language capability)

**Los Angeles County Department of Consumer Affairs**
**(213) 974-0825**
(Spanish language capability)

**The Loyola Law School Center for Conflict Resolution**
**(213) 736-1145**
(Spanish language capability)

**Martin Luther King Legacy Association Dispute Resolution Center**
**(323) 290-4132**
(Spanish language capability)

**City of Norwalk**
**(562) 929-5603**

**DRPA Contractors do not provide legal advice or assistance, including help with responding to summonses. Accessing these services does not negate any responsibility you have to respond to a summons or appear at any set court date. See the reverse side of this sheet for information on the mediation process and obtaining legal advice.**

**THIS IS A TWO-SIDED DOCUMENT.**

**What is the goal of mediation?**

The goal is to assist the parties in reaching a mutually acceptable agreement or understanding on some or all of the issues. The parties jointly become the primary decision maker in how to resolve the issues as opposed to the traditional judge and/or jury system.

**Do I need an attorney for this?**

While it is recommended to have an attorney and/or receive legal advice before the mediation starts, you are not required to have representation. If you do have an attorney, they may participate in the mediation with you.

**How long does it take?**

Face to-face mediations generally last one to three hours. Telephone conciliations, in which the parties do not meet face to face, vary from a few days to several weeks. Much depends on the number of parties involved and the complexities of the issues. When the mediation takes place depends on parties scheduling availability.

**A Mediator helps parties...**

- Have productive discussions
- Avoid or break impasses
- Defuse controversy
- Generate options that have potential for mutual gain
- Better understand each other's concerns and goals
- Focus on their interests rather than their positions

**A Mediator does not...**

- Provide advice or opinions
- Offer legal information
- Make decisions for parties
- Represent or advocate for either side
- Judge or evaluate anyone or anything
- Conduct research
- "Take Sides"

**What does it cost?**

The first three hours of any mediation are free. Thereafter, charges are based on income or revenue. All fees are waived for low-income individuals.

**What is the difference between the contractors listed and the Superior Court ADR Office?**

The services offered by the contractors listed may be accessed immediately. Those offered by the Superior Court ADR Office, also a DRPA contractor, may not be accessed by parties until a court appearance, or at the directive of the judge assigned to the case.

**Legal Advice/Information**

**If you want to retain an attorney,** a list of state certified referral services is at courtinfo.ca.gov which also has an on-line self help legal center.

**Self-Help Legal Access Centers** are at the Inglewood, Palmdale, Pomona, and Van Nuys courthouses. nls-la.org and lafla.org

**Court Personnel** can answer non-legal questions (forms, fees, fee waivers). lasuperiorcourt.org

**Low-income individuals** may qualify for help from non-profit legal organizations. Court Personnel and DRPA contractors have such listings.

**Dispute Resolution Programs Act (DRPA) Grants Administration Office**

**(213) 738-2621**

**(The DRP Office is not a Superior Court Office. Consult your phone directory to locate the number of the Court Office on your summons.)**

**THIS IS A TWO-SIDED DOCUMENT.**

| NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY | STATE BAR NUMBER | Reserved for Clerk's File Stamp |
|---|---|---|
| ATTORNEY FOR (Name): | | |
| **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES** | | |
| COURTHOUSE ADDRESS: | | |
| PLAINTIFF | | |
| DEFENDANT | | |
| **STIPULATION TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)** | | CASE NUMBER: |

**The undersigned parties stipulate to participate in Alternative Dispute Resolution (ADR) in the above-entitled action, as follows:**

1. **ALTERNATIVE DISPUTE RESOLUTION PROCESS:**
   - ☐ Mediation
   - ☐ Non-Binding Arbitration
   - ☐ Binding Arbitration
   - ☐ Settlement Conference
   - ☐ Other ADR Process *(describe)*: ____________________

2. **NEUTRAL:**
   - ☐ **Court Panel:** The parties request the assignment of one of the following neutrals from the Court's
     - ☐ Pro Bono Panel (no charge to the parties for the first 3 hours of hearing time)
       - ☐ **The parties request that the ADR Clerk select the neutral.**

       **If neither choice of neutral is available, the Court's ADR Office will select the neutral.**
     - ☐ Party Pay Panel ($150.00 per hour charge to the parties for the first 3 hours of hearing time)

   *First choice:* ____________________ *Alternate:* ____________________

Dated: ____________________

| | | |
|---|---|---|
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |

☐ **Additional signature(s) on reverse**

| Short Title | Case Number |
|---|---|
| | |

| | | |
|---|---|---|
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |
| Name of Stipulating Party<br>☐ Plaintiff ☐ Defendant ☐ Cross-defendant | Name of Party or Attorney Executing Stipulation | Signature of Party or Attorney |

**NOTICE OF CASE ASSIGNMENT**
**LOS ANGELES SUPERIOR COURT**

**CASE NUMBER** BC346567

**THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT**

Your case is assigned for all purposes to the judicial officer indicated below. There is additional information on the reverse side of this form.

| | ASSIGNED JUDGE | DEPT | ROOM | ASSIGNED JUDGE | DEPT | ROOM | |
|---|---|---|---|---|---|---|---|
| | Hon. Gregory Alarcon | 36 | 410 | Hon. William Highberger | 32 | 406 | |
| | Hon. Alice E. Altoon | 28 | 318 | Hon. Ernest Hiroshige | 54 | 512 | |
| | Hon. Conrad Aragon | 49 | 509 | Hon. Jane Johnson | 56 | 514 | |
| | Hon. Helen I. Bendix | 18 | 308 | Hon. Morris B. Jones | 48 | 506 | |
| | Hon. Elihu M. Berle | 42 | 416 | Hon. Malcolm H. Mackey | 55 | 515 | |
| | Hon. Tricia Ann Bigelow | 23 | 315 | Hon. Jon M. Mayeda | 72 | 731 | |
| | Hon. Soussan Bruguera | 71 | 729 | Hon. Rita Miller | 16 | 306 | |
| | Hon. Susan Bryant-Deason | 52 | 510 | Hon. David L. Minning | 61 | 632 | |
| | Hon. James C. Chalfant | 13 | 630 | Hon. Aurelio Munoz | 47 | 507 | |
| X | Hon. Victoria Chaney | 324 | CCW | Hon. Mary Ann Murphy | 25 | 317 | |
| | Hon. Judith C. Chirlin | 89 | 532 | Hon. Rodney E. Nelson | 46 | 500 | |
| | Hon. Ralph W. Dau | 57 | 517 | Hon. Joanne O'Donnell | 37 | 413 | |
| | Hon. Maureen Duffy-Lewis | 38 | 412 | Hon. Victor H. Person | 39 | 415 | |
| | Hon. James R. Dunn | 26 | 316 | Hon. Mel Recana | 45 | 529 | |
| | Hon. Lee Edmon | 68 | 617 | Hon. Andria K. Richey | 31 | 407 | |
| | Hon. William F. Fahey | 78 | 730 | Hon. Teresa Sanchez-Gordon | 74 | 735 | |
| | Hon. Irving Feffer | 51 | 511 | Hon. John P. Shook | 53 | 513 | |
| | Hon. Edward A. Ferns | 69 | 621 | Hon. Ronald M. Sohigian | 41 | 417 | |
| | Hon. Kenneth R. Freeman | 64 | 601 | Hon. Michael L. Stern | 62 | 600 | |
| | Hon. Haley J. Fromholz | 20 | 310 | Hon. Mary Thornton House | 17 | 313 | |
| | Hon. Richard Fruin | 15 | 307 | Hon. Rolf M. Treu | 58 | 516 | |
| | Hon. Terry Green | 14 | 300 | Hon. John Shepard Wiley, Jr | 50 | 508 | |
| | Hon. Elizabeth A. Grimes | 30 | 400 | Hon. David A. Workman | 40 | 414 | |
| | Hon. Paul Gutman | 34 | 408 | Hon. George Wu | 33 | 409 | |
| | Hon. Robert L. Hess | 24 | 314 | | 35 | 411 | |
| | | 3 | 224 | OTHER | | | |

Given to Plaintiff of record on ____________________

John A. Clarke, Executive Officer/Clerk

______________________________, DEPUTY CLERK

# Superior Court of California, County of Los Angeles, Central District
## NOTICE OF CASE ASSIGNMENT

The following critical provisions of the Chapter 7 Rules as applicable in the Central District are summarized for your assistance.

**APPLICATION**

The Chapter 7 Rules were effective January 1, 1994. They apply to all general civil cases.

**PRIORITY OVER OTHER RULES**

The Chapter 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

**CHALLENGE TO ASSIGNED JUDGE**

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

**TIME STANDARDS**

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

**COMPLAINTS:** All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

**CROSS-COMPLAINTS:** Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned I/.C Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date and expert witnesses.

**FINAL STATUS CONFERENCE**

The Court will require the parties at a status conference not more than 10 days prior to the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions and special jury instructions and special jury verdicts; so that such matters may be heard and resolved at this conference. At least 5 days prior to this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

**SANCTIONS**

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter 7 Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter 7 Rules. Such sanctions may be on a party or if appropriate on counsel for such party.

**This is not a complete delineation of the Chapter 7 Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.**

***Class Actions**

All class actions are initially assigned to Judge Victoria Chaney in Department 324 of the Central Civil West courthouse (600 S. Commonwealth St., Los Angeles 90005). This assignment is for pretrial purposes and for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court 1800 et seq. Depending on the outcome of that assessment, the class action case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 144 W. Colorado Boulevard Pasadena, CA 91105.

On February 2, 2006, I served the foregoing document described as

**SUMMONS; COMPLAINT; CIVIL COVER SHEET; ADR INFORMATION; NOTICE OF ACKNOWLEDGMENT OF RECRIPT; and NOTICE OF CASE ASSIGNMENT**

Hauenstein, et al., v. James Frey, et al.

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Random House, Inc.
c/o Corporation Service Company
P.O. Box 526036
Sacramento, CA 95852

___ **VIA FEDERAL EXPRESS** Said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

___ I deposited CERTIFIED RETURN RECEIPT REQUESTED envelope with postage thereon fully prepaid in the mail at Pasadena, California.

_X_ **BY MAIL** I placed the envelope for collection and mailing following ordinary practices. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. Under the practice it would be deposited with the United States Postal Service on that same day with postage fully prepaid at Pasadena, California in the ordinary course of business. I am aware that on motion of the party serve, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in this declaration.

Executed on February 2, 2006 at Pasadena, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Rosario Castellanos

ROSARIO CASTELLANOS

## PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss
COUNTY OF LOS ANGELES )

I, Rebecca Allemand, declare I am over the age of 18 years, and not a party to this action. My place of employment and business address is 555 West Fifth Street, Suite 4000, Los Angeles, California 90013-1010.

On February 21, 2006, I served copies of document(s) entitled:

- **NOTICE OF REMOVAL**

On the following individuals and entities, as addressed below, by the means indicated below:

Hector G. Gancedo, Esq.
Amy M. Boomhouwer, Esq.
Christopher W. Taylor, Esq.
GANCEDO & NIEVES LLP
144 W. Colorado Boulevard
Pasadena, CA 91105

Counsel for Plaintiff GARRETT HAUENSTEIN and JEAN TAYLOR, as individually and on behalf of a class of those similarly situated

☒ (VIA U.S. MAIL) I served the foregoing document by U.S. Mail, as follows: I placed true copies of the document in a sealed envelope addressed to each interested party as shown above. I placed each such envelope with postage thereon fully prepaid, for collection and mailing at Sidley Austin LLP, Los Angeles, California. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 21, 2006, at Los Angeles, California.

Rebecca Allemand

Rebecca Allemand